

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)
KENTUCKY UTILITIES COMPANY FOR AN) CASE NO. 2018-00294
ADJUSTMENT OF ITS ELECTRIC RATES)

MOTION FOR APPROVAL TO DEVIATE FROM RULES

Kentucky Utilities Company (“KU”) moves the Kentucky Public Service Commission (“Commission”) to grant KU approval, pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15, to deviate from the notice requirements in the above-captioned proceeding because KU has substantially complied with the Commission’s notice regulations. In support of this motion, KU states as follows:

1. On August 27, 2018, KU filed its Notice of Intent to file a rate application for a general adjustment in its electric rates, including changes to its electric tariffs. KU subsequently filed its application on September 28, 2018.

2. On September 19, 2018, KU delivered to the Kentucky Press Service, Inc. (“Kentucky Press”), an organization that acts on behalf of newspapers of general circulation throughout the Commonwealth of Kentucky in which customers affected reside, for publication therein once a week for three consecutive weeks beginning the week ending September 28, 2018, an abbreviated notice in conformity with the Commission’s Order of August 31, 2018, in Case No. 2018-00250.¹ Kentucky Press directed each newspaper in writing to publish the abbreviated

¹ *In the Matter of: Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for a Declaratory Order Establishing the Form of Notice and Number of Copies of Certain Documents Filed in Support of Upcoming Applications for Rate Adjustments*, Case No. 2018-00250, Order (Ky. PSC Aug. 31, 2018).

notice once a week for three consecutive weeks, with the first publication to be made beginning the week ending September 28, 2018.²

3. KU requests a deviation because four newspapers, despite clear instructions from the Kentucky Press, failed to publish the abbreviated notice for three consecutive weeks beginning the week ending September 28, 2018. Each of these four newspapers did publish the notice three times.

4. First, the *Three Forks Tradition*, a newspaper of general circulation in Lee County, Kentucky, failed to publish the abbreviated notice beginning the week ending September 28, 2018. Instead, the *Three Forks Tradition* published the abbreviated notice for the first time a week later, on October 3, 2018. The *Three Forks Tradition* then published the second and third abbreviated notices on October 10, 2018, and October 17, 2018. Therefore, the abbreviated notice was published in the *Three Forks Tradition* for three consecutive weeks beginning with the week ending October 5, 2018. Another newspaper of general circulation in Lee County, Kentucky, the *Beattyville Enterprise*, correctly published the abbreviated notice for three consecutive weeks beginning the week ending September 28, 2018.

5. Second, the *Russell Springs Times*, a newspaper of general circulation in Russell County, Kentucky, failed to publish the abbreviated notice beginning the week ending September 28, 2018. Instead, the *Russell Springs Times* published the abbreviated notice for the first time a week later, on October 4, 2018. The *Russell Springs Times* then published the second and third abbreviated notices on October 11, 2018, and October 18, 2018. Therefore, the abbreviated notice was published in the *Russell Springs Times* for three consecutive weeks beginning with the week ending October 5, 2018.

² See Certificate of Notice

6. Third, the *Owingsville Bath Outlook*, a newspaper of general circulation in Bath County, Kentucky, failed to publish the abbreviated notice correctly for three consecutive weeks. Instead, the newspaper published the first and third abbreviated notices correctly, but failed to publish the second abbreviated notice as directed. An additional abbreviated notice was published in the *Owingsville Bath Outlook* on October 17, 2018.

7. Fourth, the *Cumberland Tri-City News*, a newspaper of general circulation in Harlan County, Kentucky, failed to publish the notice correctly for three consecutive weeks. Instead, the newspaper published the first and second abbreviated notices correctly, but failed to publish the third abbreviated notice as directed. The third abbreviated notice was published on October 17, 2018. Another newspaper of general circulation in Harlan County, Kentucky, the *Harlan Enterprise*, correctly published the abbreviated notice for three consecutive weeks beginning the week ending September 28, 2018.

8. In addition to causing notice of the filing of its application in this case to be published in newspapers of general circulation in its service areas, KU has posted the full customer notice for public inspection at its office and place of business, on its website, and has sent the full customer notice to each public library located within KU's service territory with a request to post it in a public location. Moreover, KU included a general statement explaining the application in this case with the bills for all Kentucky retail customers during the course of their regular monthly billing cycle beginning on September 28, 2018. Finally, the two newspapers with the largest circulation in the state, the *Lexington Herald-Leader* and *The Courier-Journal*, not only published the notice correctly but also published articles regarding KU's and Louisville Gas and Electric Company's applications. The applications have received additional coverage in and by other media.

9. The purpose of the Commission’s notice regulation is to ensure that the public has sufficient notice of KU’s application and to respond accordingly. Despite the deviation noted above, notice was published in each county three times, and that notice was further supplemented by posting at libraries, KU’s offices, and on KU’s website, in addition to including an explanation in retail customers’ bills. KU’s substantial compliance with the Commission’s regulations has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court:

Substantial compliance in regard to publication requirements has been authorized The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.³

10. The Commission has authority to permit KU to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15.

11. Because KU is in substantial compliance with the publication requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Sections 8(2) and 9, good cause exists for the Commission to permit KU to deviate from the requirement of the regulations and to accept the publication of notice of KU’s application as sufficient.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant it approval pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15 to deviate from the notice requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Sections 8(2) and 9 and to accept the publication of notice of its application as sufficient.

³ *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

Dated: November 9, 2018

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kentucky Utilities Company's November 9, 2018 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on November 9, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original of the filing will be delivered to the Commission within two business days from the date of the electronic filing.



Counsel for Kentucky Utilities Company